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COMMISSION ON HUMAN RIGHTS

Forty-seventh session

SUMMARY RECORD OF THE 43rd MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 27 February 1991, at 10 a.m.

Chairman: Mr. BERNALES BALLESTEROS (Peru)

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The meeting was called to order at 10.40 a.m.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES, INCLUDING:

(a) QUESTION OF HUMAN RIGHTS IN CYPRUS;

(b) SITUATION OF HUMAN RIGHTS IN OCCUPIED KUWAIT (agenda item 12) (continued) (E/CN.4/1991/3; E/CN.4/1991/4; E/CN.4/1991/27; E/CN.4/1991/28; E/CN.4/1991/29; E/CN.4/1991/30; E/CN.4/1991/31; E/CN.4/1991/32; E/CN.4/1991/33 and Add.1; E/CN.4/1991/34; E/CN.4/1991/35; E/CN.4/1991/36; E/CN.4/1991/37; E/CN.4/1991/69; E/CN.4/1991/70; E/CN.4/1991/74; E/CN.4/1991/77; E/CN.4/1991/NGO/5; E/CN.4/1991/NGO/27; E/CN.4/1991/NGO/29; E/CN.4/1991/NGO/30; E/CN.4/1991/NGO/31; E/CN.4/1991/NGO/34; E/CN.4/1991/NGO/35; E/CN.4/1991/NGO/40; E/CN.4/1991/NGO/44; S/21907; A/45/567; A/45/578; A/45/607; A/45/630; A/45/664; A/45/697; E/CN.4/1990/22 and Add.1; E/CN.4/1990/24; E/CN.4/1990/25; E/CN.4/1990/26; E/CN.4/1990/28 and Add.1)

1. Mrs. JOHM (Gambia) said that although no country in the world had a perfect human rights policy, the developing countries were the ones most vulnerable to human rights violations, and in those countries, women and children. Women, who constituted two thirds of the world's workforce, received less than one tenth of the world's salaries and should be protected. The Gambia therefore welcomed the adoption of the Convention on the Rights of the Child and expected much from its application and from the application of the Declaration on the Elimination of Discrimination against Women and urged the Commission to devote special attention to fundamental human rights in the developing countries.

2. In a constructive spirit, the Gambia would like to see those African countries, where human rights issues remained a focus of international concern, cooperate actively with the Commission. The Gambia had persuaded the Organization of African Unity (OAU) to locate the headquarters of its Commission on Human and Peoples' Rights in Banjul. It had also established the African Centre for Democracy and Human Rights in conjunction with the Commission of the OAU. Through its research work, documentation, workshops and conferences, the Centre was working to promote respect for human rights in Africa. The African Charter on Human and Peoples' Rights had opened up a new dimension not only for Africa but for the world at large. Respect for human rights and fundamental freedoms was indispensable for the establishment of a new world order based on the peaceful settlement of disputes and respect for international law and not on indiscriminate violence.

3. The Commission should not relax its efforts in the face of human rights abuses of all kinds, including torture, the sale of children, arbitrary executions, which were still taking place in the world. It could, in fact, help to forge a new world order in which the right to self-determination would govern the conduct of nations. The denial of that right had brought and would continue to bring catastrophe and the Gambia denounced the brutal invasion of Kuwait by Iraq, which it regarded as a serious violation of that right, which was proclaimed in General Assembly resolution 1514 (XV), as well as article 21 of the African Charter on Human and Peoples' Rights.

4. She was convinced that respect for human rights and fundamental freedoms was now an established principle and would be further strengthened. She hoped that the land war in the Gulf would soon come to an end.

5. Mr. MENDOZA (Observer for El Salvador) said that he was pleased that in the oral introduction to his report, Mr. Pastor Ridruejo, the Special Representative of the Commission, had stated that he was convinced that the President of the Republic and the various bodies created by the Salvadorian Constitution were concerned to improve the human rights situation in his country. The Special Representative had thus confirmed what he had said in his written report, namely, that in 1990, the number of violations recorded had decreased. It was indeed a fact that although there was an armed conflict, the figures relating to El Salvador could not be compared with the figures for those countries which had not, however, been discussed in the Commission, under a specific agenda item.

6. President Cristiani and his Government had set themselves the goal of meeting the aspirations and needs of the Salvadorian people in the political, economic and social fields, of establishing peace and national reconciliation through dialogue, of preserving democracy, of encouraging political pluralism and popular consultation, and of thus assuring respect for human rights. The people were behind him, as were all the political parties, which had condemned the use of violence and emphasized the importance of elections, in particular those scheduled for 10 March.

7. The stand taken by the parties, some of which had no deputies, showed a real consensus among the current ideological trends.

8. The main stages of the process of dialogue and negotiations with the Frente Farabundo Martí para la Liberación Nacional (FMLN) had taken place in Caracas, Mexico City and in San José, Costa Rica. In San José an agreement had been reached between the two parties which had undertaken to respect human rights. The agreement provided for the establishment of a United Nations verification mission headed by a person, to be designated by the Secretary-General. The latter had requested permission to send an observer mission to El Salvador (ONUSAL) to monitor the application of the agreements between the Government and the FMLN and the Salvadorian Government hoped that that mission would begin work as soon as possible.

9. In a democracy, the civil authorities represented the will of the people and political decisions could not be taken by any group or institution that was not recognized by the Constitution. It should be pointed out that at no time during the negotiations had the Government been impervious to the idea of making changes in the armed forces. Some of those changes had already been made and would bring the army closer to the present and future situation of the new society; other changes were contemplated, for example, placing the police force under the civil authorities and making the armed forces responsible only for the defence of national sovereignty.

10. Other initiatives to promote peace included those taken by the Central American countries, which had led to the Esquipulas II Agreements and to the subsequent joint declarations by the presidents of the Central American countries. Those statements formed an indivisible whole, specifically the Tela, San Isidro de Coronado, Montelimar, Antigua and Puntarenas agreements.

An appeal had also been made to the FMLN to give up the armed struggle and its acts of violence, which caused suffering mainly to the civilian population, and to become a part of the democratic life of the country.

11. He regretted that the Special Representative had made no reference to the statement by the Presidents of Guatemala, Honduras, Nicaragua and Costa Rica on 17 December 1990 in Puntarenas, Costa Rica, in which they had condemned the FMLN offensive launched in November 1990 as a violation of the Agreement on Human Rights signed in San José and in which they called upon the FMLN to begin a ceasefire effective immediately and to work for firm and lasting peace in the region and to cease obstructing the elections and become involved in the democratic process; lastly, declaring that peace was indivisible, they had urged all the peoples and Governments of the world to do their utmost to convince the FMLN of the need to negotiate.

12. Although the conflict made its work in respect of human rights more difficult, the Government had acted decisively, in conformity with the law, against the perpetrators of violations, whether they were members of the civil or military authorities. In the "El Zapote" case, the perpetrators of that heinous crime had been captured and from their statements it had been established that they had acted on personal grounds.

13. The Government of El Salvador regretted that the Special Representative had made no recommendations regarding the elections to be held on 10 March, which would be the first to take place in the second decade of El Salvador's democratization. The country had nothing to hide and observers from all over the world were invited to be present on that occasion.

14. Mr. BOFILL (Panama) announced that he had in his possession a report containing 431 complaints about violations of human rights and fundamental freedoms committed by the Cuban authorities, violations of the right to life, to freedom of expression, movement, association and peaceful assembly, of the right to practise one's religion, etc. However, it was almost tautological to denounce human rights violations in Cuba considering that the régime of that country declared that it was orthodox Marxist-Leninist, in short Stalinist. The violation of human rights had been institutionalized from the early 1960s. It was the leaders themselves, or the heads of the Communist parties of countries, which a short time before, had been subjected to Brezhnev-type Stalinism, who had denounced the political crimes, the secret operations to wipe out all political dissidence and the official disinformation campaigns, which were the typical methods of government used by that type of police State.

15. Fidel Castro had declared that he was fundamentally opposed to the idea of introducing into Cuba reforms like those which had to some extent transformed countries such as Czechoslovakia, Hungary, Poland, the Soviet Union and which quite soon would apparently also transform Albania, a country which had very closely followed the Stalinist line. There was no doubt that there were serious human rights problems in Cuba which deserved the Commission's attention.

16. Recent speeches by Fidel Castro, like the one from which the Cuban Committee for Human Rights had quoted in its report where he had spoken of crushing the so-called human rights activists like cockroaches, or statements by other senior Cuban officials left no doubt as to the Cuban leaders' disregard for fundamental human rights.

17. The document, which he was placing at the disposal of the participants, also contained information that had been confirmed by a very rigorous Amnesty International report - an organization whose impartiality had been repeatedly demonstrated and whose humanitarian work had earned it the Nobel Peace Prize.

18. The Cuban Committee for Human Rights and other dissident organizations that were observing the situation in Cuba were the exact Cuban counterparts of the movement of the observers of the Helsinki Accords, founded by Andrei Sakharov and of the Charter 77 movement to which Vaclav Havel, the present President of Czechoslovakia, had belonged. They were therefore the most authentic expression of the Cuban people's repressed, of course, but ardent desire for democratic reforms which would guarantee full respect for human rights. And like the erstwhile Stalinist countries of Europe, the Committee was the forum in which the political avant-garde of Cuba could express their views. Nevertheless, the Cuban human rights defence movement was being brutally suppressed; 90 per cent of its activists were in prison and the Cuban Government was using every means available against the rest including insults, blackmail, slander, in its war of disinformation. However, that typically Stalinist tactic was further proof that Cuba was a police State.

19. He also referred to two statements by the representatives of Cuba in the Commission, which reflected Cuba's official human rights policy. The first statement had affirmed purely and simply that there were no violations of human rights in Cuba, an absurd assertion since those rights were being constantly violated everywhere in the world and the intention was to ensure that Governments did not allow their officials or their departments to commit those violations with impunity and to prevent the disregard for human rights from becoming a habit as had been the case in all the régimes which boasted of being orthodox Marxist-Leninist.

20. The verbal attack against him by a member of the Cuban delegation in the Commission attested to the Cuban Government's hatred of and cruelty towards those who, with just cause, criticized its behaviour and its flagrant and scandalous human rights abuses. The slanderous and insulting accusations made by the followers of Castro merely provided further evidence of the Cuban officials' savage behaviour towards any citizen who upset them. The brutal attacks on him by the Cuban Government did not disturb him in the least; in fact, he was honoured by them. Moreover, they proved that his aim had been accurate.

21. In conclusion, he expressed the hope that the Commission would not wait until a democratic change took place in Cuba before it examined all the human rights violations and atrocities which had been committed there for years, because the wait might well be a long one.

22. Mr. VIGNY (Observer for Switzerland) said that he regretted that the Commission had decided to invite the Independent Expert on Guatemala to introduce his report on the alarming human rights situation in that country not under agenda item 12 but under agenda item 21, namely, advisory services, because the discussions under agenda item 21 should certainly not take the place of the Commission's regular work in the context of agenda item 12 to contribute towards ending human rights violations throughout the world. His delegation also hoped that the Commission which had all too often used a double standard in judging various countries, would decide that year to

consider, in open meeting, the situation in other States that seriously violated human rights. His delegation considered that one way to achieve greater objectivity would be to provide, under certain conditions to be determined, an opportunity for members of the Commission to vote by secret ballot as was the practice in the Sub-Commission in certain instances. States would thus be able to express their opinion freely without having to yield to pressure, or indeed to threats of reprisals by the States under scrutiny. The argument, which some would advance to the effect that such a vote would be lacking in transparency, would be compensated by the positive results that could be expected from such a new system, namely, greater credibility.

23. The uncontrolled proliferation of the ad hoc machinery set up over the years and which had sometimes been arbitrarily selected, depending on the political weight of the country concerned, also weakened the action of the Commission and helped to obscure the purpose of that action. It was difficult for the media and public opinion to grasp the subtle differences which there might be between a special rapporteur, a special representative, a special envoy, a mission of representatives of the five geographical regions, an independent expert or a report of the United Nations Secretary-General. The Swiss delegation, for its part, preferred the special rapporteur procedure. Working groups were, at a pinch, acceptable in the context of a thematic approach to human rights violations but were not suitable when the purpose of the exercise was to consider the situation in a given country.

24. Fundamental universal values included the guarantee, for all citizens, of freedom, equality and justice, which constituted the three pillars of a State governed by the rule of law. Every State should be able to choose its political, economic and social status freely, but every citizen should also be able to express his opinion democratically on that subject by sending representatives to Parliament. The executive power should be representative and accountable to Parliament, and the military and police authorities to the civil authorities; last of all, the judiciary should be independent. Furthermore, the resources and wealth of the country should be equitably distributed among the various groups and strata of society and among the citizens themselves. Switzerland was aware that the economic and social development of a State was essential for the peace and security of that State. Respect for all human rights was fundamental to real development and Switzerland viewed its cooperation as a contribution to the promotion of all those rights. Economic, social and cultural rights were the indispensable complement to civil and political rights, because the latter should be guaranteed and enjoyed in the context of a decent material existence. Nevertheless, an insufficient level of development could on no account justify violations of the most fundamental human rights, such as torture or summary or arbitrary executions.

25. Given the importance which Switzerland attached, at the universal level, to all human rights, whether civil and political or economic, social and cultural, the Government of Switzerland had submitted a proposal to the Chambers of the Federal Parliament that Switzerland should accede to the two United Nations International Covenants on Human Rights in order to put the country in a position to pursue a more comprehensive and consistent policy in that field. Switzerland's activities for the protection and promotion of human rights, both nationally and internationally, was very closely linked to the system of values which it defended and its concern for human dignity.

That commitment was an abiding feature of the foreign policy of Switzerland, which regarded respect for human rights as an essential basis for national and international security, without which a lasting peace based on stability and justice could not be achieved.

26. In the event of armed conflict, the 1949 Geneva Conventions and their 1977 Additional Protocols rounded off the protection granted to the individual by the International Covenants on Human Rights which were applicable in all situations. Consequently, the Swiss Federal Council had launched an urgent appeal to the States involved in the Gulf conflict to respect in their entirety the provisions of those Conventions, to which they were all parties, in particular the provisions concerning the protection of civilians and the treatment of prisoners of war. Switzerland also urged all the belligerents, without exception, to allow the International Committee of the Red Cross (ICRC) to take action on behalf of all the civilian and military victims of the conflict.

27. Mr. SENE (Senegal) speaking on agenda item 12 (b), said that, like all countries that cared about peace and justice, Senegal had condemned the brutal annexation of Kuwait by Iraq as a flagrant violation of the principle of national sovereignty, the provisions of the Charter of the United Nations, the Universal Declaration of Human Rights and of international law in general. While the Commission was certainly not mandated to settle disputes by vocation it embodied the moral conscience of mankind, because it codified the conduct of States in the area of human rights and fundamental freedoms. Consequently, many delegations and non-governmental organizations had raised the painful question of the situation of human rights in occupied Kuwait in the Commission.

28. The Gulf crisis currently held international attention and much was being said on the subject, but the Commission should confine itself to the facts, namely that violations of fundamental human rights had been committed in Kuwait by the Iraqi occupying forces. Those violations had been documented in E/CN.4/1991/70 and had also been fully described in many statements. It should also be recalled that in its resolution 1990/13, the Sub-Commission on Prevention of Discrimination and Protection of Minorities had recommended that the Commission should study the evolution of the situation of human rights and fundamental freedoms in Iraq and that the General Assembly itself in its resolution 45/170 had drawn the Commission's attention to that question for the appropriate action to be taken.

29. The Commission should therefore, study the problem bearing in mind that, after Kuwait had been liberated, it would be necessary to restore peace in all the States of the Middle East, the cradle of great cultures and civilizations which made the region a key element for the future history of mankind. The Commission should help to ensure respect for the human rights of all the peoples of the Middle East, their dignity and cultural identity, their development needs and their historical continuity. In that regard his delegation wished to recall that Senegal had never accepted the linkage that some wished, to establish between the liberation of Kuwait and the solution to the Palestinian problem. On the other hand, it believed that any peaceful comprehensive settlement of the problems of the Middle East which was to be just and lasting, should entail the solution of the Israeli-Arab dispute of which the Palestinian question was a fundamental aspect. The Commission

should not forget that the Palestinians had also suffered as a result of the war, especially in Gaza and on the West Bank, where a very strict curfew had been imposed with effect from 17 January.

30. The Commission should send a clear signal to the Governments and peoples of Iraq and Kuwait indicating its anxiety to contribute to the identification of all forms of human rights' violations which had been committed and to the establishment of a climate of peace, security and stability, which was indispensable for the defence of human rights and freedoms. It was to be hoped that international relations would take on a new dimension, one of dialogue and negotiation in the service of human rights, peace and development. The message sent by the Commission of liberated Kuwait and to Iraq should be seen as a step in that direction, in keeping with the spirit of the United Nations resolutions, in order to prepare the advent in the region of a new order that augured well for the promotion of human rights and universal values of freedom and brotherhood.

31. Mr. ALEX (Observer for Luxembourg) said that he was speaking on behalf of the European Community and its member States and wished to raise a number of points which came under agenda item 12.

32. The link between democracy, human rights and sustained development had become increasingly obvious in the context of international economic cooperation. That link had recently been reaffirmed, for example, in the Final Document of the Second United Nations Conference on the Least Developed Countries, adopted in September 1990. Furthermore, the promotion of human rights was a key element of the Fourth Lomé Convention between the European Community and its partners from the African, Caribbean and Pacific States and it was also the predominant feature of the cooperation which had been established between the Community and the Asian and Latin American countries. The Twelve reiterated their firm belief that efforts to secure the protection of human rights and fundamental freedoms should not be regarded by anyone as interference in the internal affairs of a State. Such intervention was, in fact, justified under Articles 55 and 56 of the Charter of the United Nations.

33. In the opinion of the European Community, the World Conference on Human Rights, scheduled to be held in 1993, was unquestionably a positive initiative which would give a fresh impetus to respect for human rights. The Conference would be required to consider ways and means of enhancing the protection and promotion of human rights and strengthening the mechanisms established within the United Nations for that purpose, and was therefore most important.

34. Since the Commission's previous session, there had been a number of encouraging developments, such as the reunification of Germany and the changes in Central and Eastern Europe as well as in Haiti, Namibia and South Africa. However, during that period disquieting situations had persisted or emerged in many other parts of the world, including in particular the systematic and brutal violations of human rights perpetrated by Iraq against its own population, the Kuwaiti population and foreign hostages. A number of reprehensible practices had also continued that were detrimental to human rights, for example, the virtual impunity enjoyed by those responsible for institutionalized human rights abuses in many countries. The European Community and its member States had always energetically denounced human

rights violations, wherever they occurred, as was demonstrated by some 100 declarations published as part of the European cooperation policy, dealing with specific human rights problems throughout the world.

35. Over the last 12 months, the representatives of the European Community and its member States had taken over 120 iniatives, which had often helped to persuade the Governments concerned to reconsider their positions on human rights and fundamental freedoms. The Community welcomed the fact that the Filippino Government had invited the Special Rapporteur to examine questions relevant to torture and the Working Group on Enforced or Involuntary Disappearances to visit the Philippines, and it hoped that other countries would follow its example. The member States of the European Community were not claiming to hold themselves up as models for other States in the matter of respect for human rights and fundamental freedoms, because they felt that they should first of all ensure respect for those principles on their own territory, and indeed on the European continent, before discussing what was taking place elsewhere. It was for that reason that the Twelve had closely monitored the developments in the countries of Central and Eastern Europe. It should therefore be noted that Poland, Hungary and Czechoslovakia had instituted the rule of law and that the last two had acceded to the European Convention on Human Rights, which was one of the most binding human rights instruments, in that it granted the individual the right of appeal against any State which had wronged him and in that it had established particularly effective legal bodies.

36. However, the Twelve had observed that the establishment of new political and social structures in the countries of Central and Eastern Europe had not gone entirely smoothly. While they welcomed the improvement in the human rights situation in Romania, they were encouraging the Romanian authorities to continue their efforts in order to promote tolerance and encourage dialogue. They had taken note of the report of the Romanian Parliamentary Commission of Inquiry set up following the events of 13 to 15 June 1990 and had welcomed the statement by the Minister for Foreign Affairs of Romania in the Commission on 15 February 1991. The European Community considered that the Special Rapporteur should continue to monitor the evolution of human rights and fundamental freedoms in Romania and, where necessary, assist the Romanian authorities in that area. Furthermore, while welcoming the decisions taken by the Albanian Government to move towards democracy, the Twelve were concerned about the situation of human rights in Albania, in particular the repression of demonstrations, and they were encouraging the Albanian Government to intensify the process of democratization, religious freedom, as well as respect for the right to leave any country including one's own and to return to one's country. The European Community was equally disturbed at the human rights situation in Kossovo, Yugoslavia, and urged all the parties concerned to seek a peaceful solution to the present crisis and called upon the Yugoslav Government and the local authorities to guarantee full respect for human rights and fundamental freedoms. It stressed the need to avoid the use or the threat of use of force at all costs.

37. In the face of the acts of violence that had been committed in the Baltic countries, the Twelve had taken a number of specific measures that should clarify the situation. It should be recalled that by virtue of the commitments made by the Soviet Union vis-à-vis the United Nations, the international community was entitled to demand that the culprits should be

identified and punished, that the Soviet authorities should henceforth refrain from any use of force and should encourage the establishment of a dialogue. The Twelve had welcomed the assurances offered to that effect by the Soviet representative to the Commission and the important statement which the Chairman of the Commission had read out. However, they continued to call for the application of human rights and fundamental freedoms in the Baltic countries as well as in all the Republics and autonomous regions of the Soviet Union.

38. The division of Cyprus and its consequences for human rights and fundamental freedoms were of grave concern to the European Community and it reiterated its support for the restoration of the unity, independence, sovereignty and territorial integrity of the island.

39. Regarding the human rights situation in Africa, the European Community welcomed the process of democratic restoration embarked upon by a number of African countries and hoped that the process would be extended to all the countries of the continent. Unfortunately, some countries, such as Liberia, were racked by serious crises which had a disastrous impact on human rights. The Twelve had followed with keen interest the great strides forward made in South Africa over the last 12 months and were pleased with President De Klerk's announcement of further major changes on 1 February 1991 as well as with the outcome of the talks between the Government and the ANC. That rapprochement might well simplify the negotiations which should result in the drafting of a new constitution. However, the European Community continued to call for the abolition of the system of apartheid and it would not relax the measures it had adopted in 1986 until the South African Governments had taken legislative action to abolish apartheid. As far as the situation concerning human rights and fundamental freedoms in Namibia was concerned, the Community deemed it encouraging.

40. On the other hand the events in the Horn of Africa, a region torn apart by a host of conflicts, and the intolerable suffering, ensuing from that situation, continued to be a source of concern to the European Community. Although they were still anxious about human rights in Ethiopia, the Twelve welcomed the release of a number of political prisoners and considered that the attempts made by the Government of Ethiopia to enter into negotiations with the parties to the internal conflicts deserved encouragement. The Twelve considered that Ethiopia's problems could not be solved by political measures alone. They had been very pleased when permission had been granted to use the port of Massawa for routing humanitarian assistance and they had congratulated the opposing parties on putting the interests of the drought-stricken population of Eritrea above any political considerations. The European Community was also very disturbed at the situation prevailing in Somalia and reaffirmed its support for the process of national reconciliation which should bring about greater respect for human rights and assist the country to preserve its independence, unity and territorial integrity. In Sudan, the human rights situation had further deteriorated since the Military Junta took power in June 1989. Although many political prisoners had been released, hundreds of the régime's opponents were still in prison without any likelihood of a trial. There were allegations of systematic ill-treatment and torture. The summary trials and subsequent execution of the persons involved in the 1991 coup d'état raised doubts about the respect accorded to the elementary rights of the defence.

41. The Twelve were deeply concerned at the tragic events which had reportedly occurred in Lubumbashi, Zaire, and called upon the Zairian Government to make what had happened wholly clear. Noting with interest the invitation issued to the Special Rapporteur, Mr. Amos Wako, the Twelve hoped that he would be able to conduct a thorough inquiry into those events. The Twelve hoped that a peaceful solution would be found to the conflict currently besetting Rwanda and they supported any regional initiative which, more especially, would provide a solution to the problem of Rwandese refugees in the bordering countries.

42. The Twelve noted with satisfaction that some States in Latin America had taken important steps to bring about internal reconciliation, the full exercise of democracy and the restoration of human rights and fundamental freedoms. Thus, Chile had again become a State governed by the rule of law and the Chilean Government, in fulfilment of its commitments, had taken measures which the Community welcomed.

43. Nevertheless, the situation in a number of countries in the region continued to be alarming. While the European Community encouraged and supported the Salvadorian Government which had undertaken to improve the human rights situation in the country, it was still worried at the summary executions and the intimidation mentioned in the report by the Special Representative on the situation of human rights in El Salvador (E/CN.4/1991/34). Noting the decline in the number of murders, executions and other serious human rights violations following the signing of the Pact of San José, the Twelve called on the parties concerned to continue the dialogue in order to establish full respect for human rights in the country. The European Community regretfully noted that the penal system in El Salvador continued to function in a totally unsatisfactory manner and considered that the Commission should consider extending the Special Representative's mandate.

44. The Twelve were still very concerned about the human rights situation in Guatemala and were particularly alarmed over the massacre perpetrated by members of the armed forces in Santiago Atitlán, on 2 December 1990, and reports of the disappearance and execution of street children. The Twelve felt, like the Independent Expert, whom it congratulated on his report and on his recent contacts with the Guatemalan Government, that one of the priorities of the new Government should be to continue to assert its authority over the armed forces and to secure their cooperation in order to end the violence used by certain paramilitary groups. The Twelve encouraged the Guatemalan Government to undertake reforms in order to guarantee lasting respect for human rights and fundamental freedoms in the country. In that connection, they had taken note of the statements as well as the first decisions of the new Government, which aimed at ensuring the supremacy of the civil authority and strengthening the legal system. Nevertheless, they hoped that the Commission would continue to concern itself with the question of human rights in Guatemala and that the Special Rapporteur would continue his activities.

45. Having noted the fact that the note by the Secretary-General on his ongoing contacts with the Cuban Government (E/CN.4/1991/28), the European Community was profoundly disturbed at the pressure brought to bear on certain of the people who had cooperated with the United Nations in the field of human rights. The Community would, however, continue the dialogue with the Cuban authorities. In the same region, after years of dictatorship and violations

of human rights and fundamental freedoms, the Republic of Haiti was once again on the road to democracy. The Twelve felt, however, that the Commission and the international community as a whole should help the still fragile Haitian democracy to assure full respect for human rights.

46. Regarding the situation in China, the Twelve condemned the harsh sentences passed after the summary trials of Chinese citizens who had been fighting for democracy. They again requested the Chinese authorities to respect human rights throughout the country, including Tibet. In the meanwhile, they would continue the dialogue with the authorities in order to secure the release of all political prisoners and respect for the right of citizens to peaceful assembly and the free expression of their opinions. The Twelve welcomed the decision to lift the ban on political parties in Nepal, the constitutional reforms which established a democracy based on a multi-party system, and the announcement of general elections in May 1991. Regarding Afghanistan, where an armed conflict was still going on, the Twelve were deeply concerned at the conditions of detention of prisoners held in Kabul, and also at the lot of those who were being held by the opposition forces. The situation of the refugees was virtually unchanged and that too was disquieting. The European Community felt that, until a global and democratic political solution was found, the mandate of the Special Rapporteur to examine the human rights situation in Afghanistan should be extended.

47. Regarding Cambodia, the twelve welcomed the plan adopted on 28 August 1990 by the five permanent members of the Security Council and adopted in its entirety by all the Cambodian parties concerned. That plan formed the basis for a settlement of the Cambodian conflict. It should be pointed out that the Community was in favour of any negotiated political solution which guaranteed the independence, sovereignty, neutrality and territorial integrity of Cambodia. The Twelve also welcomed the adoption, by the five permanent members of the Security Council and by the co-Chairmen of the Conference, of the preliminary peace plan drafted by the Paris International Conference on Cambodia. The Community wished to stress that the Cambodians had a fundamental right to choose their own Government by free and fair elections, held under United Nations auspices, and considered that neither the Khmer Rouge nor any other Cambodian party was entitled to take or keep power by the force of arms. With respect to Viet Nam, the Twelve noted that the Vietnamese authorities had fulfilled their obligations to the repatriated Vietnamese, but that they had still not released the political prisoners whom they had imprisoned, contrary to their international obligations. They hoped that the Vietnamese authorities would take prompt measures to release them. The Twelve were still very concerned at the deterioration of the human rights situation in the Union of Myanmar, where the authorities had discounted the results of the elections of 27 May 1990, which the opposition had won. Many political leaders had been detained or placed under house arrest and there was a good deal of evidence of increasingly serious and numerous violations of the human rights of defenceless civilians. The Twelve therefore requested the Government of Myanmar to take into account the results of the 1990 elections and hand over power to those who had won. Deploring the climate of violence prevailing in Kashmir, which was causing a deterioration in the human rights situation in the region, they hoped that the Indian and Pakistani Governments would do nothing to cause the tension in the region to mount and that conditions would be created to enable the Kashmiri population to enjoy all its fundamental rights and that the Indian Government would allow non-governmental humanitarian organizations free access to Kashmir.

48. The disappearances and extra-judicial executions in Sri Lanka were a source of serious concern to the European Community. While the Twelve welcomed the decision taken by the Sri Lankan authorities to permit the Working Group on Enforced and Involuntary Disappearances to enter Sri Lanka in September 1991, and while it recognized the difficulties facing the Sri Lankan Government on account of the civil war raging in the country, they were alarmed by the acts of violence perpetrated by the "death squads" and other groups which had allegedly been organized by the authorities or were at least tacitly supported by them. The Twelve called on the Sri Lankan Government to respect human rights even during peace-keeping operations. The Twelve were also disturbed by the obstacles faced by citizens who tried to bring charges and they condemned any intimidation or reprisals against Sri Lankans. The Twelve welcomed the creation of an ad hoc group on human rights and hoped that its work would yield practical and objective results, but urged the Sri Lankan Government to do its utmost to make it easier for the International Committee of the Red Cross (ICRC) and of the organization, Médecins sans Frontières to carry out its humanitarian work.

49. In East Timor, although access to some districts was still prohibited, reports that the Indonesian forces were continuing to violate human rights in that territory had been received. The Twelve welcomed the fact that the Special Rapporteur to examine questions relevant to torture planned to visit East Timor and they hoped that the NGOs would also be permitted to do so. They hoped that an equitable solution would be found, in conformity with the principles of the Charter of the United Nations and with the legitimate interests of the population of East Timor.

50. While the previous report of Mr. Galindo Pohl, Special Representative of the Commission on Human Rights on the human rights situation in the Islamic Republic of Iran (E/CN.4/1990/24), showed that some degree of progress had been made, unfortunately, his final report (E/CN.4/1991/35), indicated that violations of human rights were still being perpetrated in that country. The Government of Iran should, however, be encouraged because it had shown some willingness to make the work of the Special Representative easier, although the Twelve noted that the decision to invite the ICRC to visit prisons in the Islamic Republic of Iran had not yet materialized. The mandate of the Special Rapporteur should therefore be extended in the hope that he would be able to expect the full cooperation of the Iranian authorities.

51. During the consideration of agenda item 4, the Twelve had already had occasion to deplore Israel's violations of the rights and fundamental freedoms of the populations in the territories which it had occupied since 1967. They called upon Israel to respect the obligations which it had contracted under article 49 of the Fourth Geneva Convention and they condemned any violence, regardless of who perpetrated it.

52. In Lebanon, a country whose population had suffered terribly in recent years, the ratification of the Taef Agreements by the Lebanese Parliament and the drafting of the security plan for the greater Beirut area had nevertheless established the foundations for a national reconciliation plan which was conducive to the building of a State governed by the rule of law. That process had the full support of the Twelve, who wished, however, to take the opportunity to state their deep concern at the fate of the hostages still being held in Lebanon.

53. In the face of the seriousness of Iraq's military aggression against Kuwait, the illegal occupation of that country and the atrocities committed there by the Iraqi authorities, the Commission was duty bound to reveal the violations thus perpetrated in Kuwait by the Iraqi Government. The only effective way to end the present situation was through the immediate and unconditional evacuation of Kuwaiti territory by the Iraqi occupying forces, in compliance with the Security Council resolutions. One was also bound to note that the violations of the fundamental human rights of the Iraqi people and, in particular of the Kurdish minority by the Iraqi régime were continuing, despite the growing attention given to that situation by the United Nations for several years. The use of chemical weapons against the Kurdish minority was particularly intolerable. The Twelve hoped that, at its current session, the Commission could adopt an effective procedure for considering the situation of human rights in Iraq, inter alia, by appointing a special rapporteur with the appropriate mandate.

54. The Commission's first duty was towards individuals, not Governments. The Community and its member States considered that today, more than ever, the Commission was the most appropriate body to monitor the effective application of the universal rules and principles in respect of human rights.

55. Mr. AL-KADHI (Iraq) said that he had at first hesitated to take the floor before a Power, the United States of America, which exercised hegemony over an entire region and which showed its complete disregard for human rights by attacking Iraq. He therefore preferred to address his remarks to the other forces present in the Commission which were genuinely striving to assert fundamental human rights. Human rights existed both nationally and internationally and no State could ignore them. Iraq was perfectly aware, of its obligations and its rights in that area, which dated as far back as the Hammurabi Code and the age of Sumer and Babylon.

56. During the last decade, the country had experienced difficulty and eight years of war had sorely tried its land and its people. Since the war had completely mobilized attention, it was inevitable that respect for human rights should suffer. But when Iraq had entered the post-war period, it had deemed it necessary to review the entire political, economic, cultural and social organization of the country and reformulate certain laws, in particular those which had curtailed the exercise of rights and freedoms during the period of armed conflict. It was in that spirit that a bill on freedom of the press and another on the multi-party system, for example, had been drafted. Some had reacted to those measures with scepticism, but it should be recalled that on 11 February 1990, the National Iraqi Human Rights Committee had invited all the members of the Sub-Commission to visit the country to ascertain the real situation there regarding the exercise of human rights. Unfortunately, the Western countries had used flimsy pretexts to prevent that visit from taking place and had checkmated an initiative which could, however, have created a precedent in the area of human rights.

57. The situation of the Iraqi citizens of Kurdish origin in Iraq had been raised by many non-governmental organizations and recently by the Observer for Luxembourg, speaking on behalf of the member States of the European Community. However, it should be emphasized that the situation of those citizens was exemplary. In fact, a distinction should be made, on the one hand, between the recognition of the national rights of the Kurds and the

rebellion fomented from abroad in order to destabilize the region of Kurdistan, on the other. In Iraq, there was no discrimination between communities and faiths, and the law governing the autonomy of Kurdistan was designed to promote the legitimate interests of the Kurdish population. In the political sphere, since 1974, Iraqi citizens of Kurdish origin had been able to elect members to the Legislative Council of the autonomous region of Kurdistan. Education at the primary and secondary levels was in the Kurdish language and there were publications, a television station and radio programmes in the Kurdish language. Iraq was in fact the only country that had recognized those rights for its Kurdish population. Nevertheless, some elements had made foreign contacts in an attempt to destabilize the Iraqi régime, which was striving to combat imperialism and zionism and to secure the well-being of the population. The former United States Secretary of State, Mr. Kissinger, had himself admitted in his memoirs that his country had cooperated with the Shah of Iran to incite the Kurdish population to revolt. A distinction should therefore be made between the legitimate recognition of the rights of the Kurdish population and the intolerable machinations of outlaws.

58. The high level of development that Iraq had attained in every area, development which was necessary for the establishment of democratic institutions and the exercise of human rights, had displeased the United States, the Western countries and their ally, Israel, which felt that Iraq had overstepped the bounds to which a developing country was restricted. Consequently an extensive, though unsuccessful media campaign had been waged against Iraq for two years and an economic blockade had been imposed on the country through cooperation between the United States and the Gulf kingdoms, in particular Kuwait.

59. In the same spirit of domination, the forces of the United States, in collaboration with other European countries, in particular France and the United Kingdom, had recently launched the most extensive aggression ever perpetrated against a third world country. The result was that Iraq's industrial and economic infrastructure had been destroyed, civilian areas and shelters had been bombed and prisoners of war humiliated. The resolutions adopted by the United Nations Security Council had been exceeded, and there had been no hesitation about carrying out napalm raids, although napalm was a substance whose use had been internationally banned. Those inhuman practices had revealed what the coalition countries really felt about human rights. Despite the fact that Iraq had agreed to withdraw from Kuwait, the coalition forces had launched their land offensive exactly when the Security Council had been meeting to consider the Soviet Union's proposal for a settlement obliging the Council to close the meeting! That defiant attitude towards the United Nations did not augur well for the future role of the Organization in the maintenance of international peace and security.

60. The aggression launched against Iraq by the United States of America and certain European countries, which claimed to be seeking a new international order, proved that they wished to establish a régime similar to the one which Hitler had wanted to establish in the 1940s. Furthermore, the United States was seeking to undermine the Commission by manipulating it on a daily basis and there was a huge gulf between that country's declarations of intent and its acts.

61. The observer for Luxembourg had just announced that a hostile decision against Iraq was being contemplated within the context of the Commission. He asked the delegations of the developing countries to cooperate with Iraq, because the problem facing his country was one which affected the whole third world. It was obvious, in fact, that the United States and the Western countries did not hesitate to use their economic and military might against any country which they felt had overstepped the limits which they had set for it, in order to keep it in a state of colonization. How could the European countries, which had opposed the adoption of so many resolutions concerning Palestine and South Africa still talk about respect for human rights? The question inevitably arose as to why human rights continued to be disregarded throughout the world. It was obvious that the cause of that situation was the political and economic hegemony exercised by the Western countries over the rest of the world in blocking the progress of the developing countries. But political democracy necessarily went hand in hand with economic development.

The meeting rose at 1 p.m.